

**GS Advanced Program 2023****Generic Booklet**Test Name/Code/No. : **692037**

Name			
Email ID.			
Roll No.			
Mobile No.		Date	

Allotted Time : 60 Minutes**Instructions to Candidates -**

- There are 7 Questions in this Question paper.
- All Questions are Compulsory.
- For all updates, please visit the noticeboard -
<https://noticeboard.forumias.com/gsap-2023/>

Important -

- Answers must be attempted in the QCA Booklet only.
- To upload the Answer Copies please visit to "My Course" section on -
<https://academy.forumias.com/>
- Only those copies will be evaluated which will be submitted before the next class.

Q. No.	Grade/Score
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Overall Grade/Score	

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Forum IAS

Start Writing Here

Q.1)

Most significant achievement of modern law in India is the constitutionalisation of environmental problems by Supreme Court.
Discuss with case laws.

Through various initiatives, the judiciary has recognised environmental issues as important problems in Contemporary India.

Case Laws

(i) Municipal Corporation, Paltam vs. Vaidichand
Case

The court held that the municipal corporation failed to maintain roads in sanitary conditions. The municipality was then directed to make efforts for environmental protection.

(ii) MC Mehta vs Union of India

The court recognised that people deserve to live in an environment that was free from pollution. The principle of

"absolute liability" was introduced.

(iii) Subhash Mahajan case

The Supreme Court interpreted Right to Environment as part of Article 21

(iv) Law Society vs Fertilisers and Chemicals Travancore Ltd.

The court gave a broad meaning to A.21 by including Right to environment to it

The Supreme Court has used provisions of DPSP (Article 48A) and Fundamental duties (A.51 A(1)) to interpret a fundamental right to environment as a part of Right to Life.

Overall Grading (✓)

Poor			Average			Good		
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Q.2)

India needs a duty-based approach instead of a rights based approach. Examine this statement.

Recently P. M Modi encouraged citizens of India to be serious and focus on the fundamental duties given in our constitution, as we continue to enjoy our guaranteed rights.

Duties
Rights based approach

- (i) great emphasis has been given to citizens' duties as seen through Article 29 of UNDHR and the Citizens' Almanac issues by USA
- (ii) By embodying principles of a "responsible citizenship", many countries have transformed into developed economies eg. Singapore
- (iii) In our ancient time, an individual's "kartaarya" was always emphasised.
- (iv) Gandhiji also encouraged people to discharge their duties, as rights will

then he not too far to seek.

- (v) Issue - Can lead to automatic tendency by state.

Rights based approach

- (i) Rights act as a check against rigid structures like caste, religion etc
- (ii) By placing "burden of duties" upon the marginalised, duties can entrench existing power structure
- (iii) Citizens already perform duties. eg Paying taxes
- (iv) To qualify as right bearer, one does not have to perform any duty

Therefore our rights are dependent on duties performed by others. Rights and duties are complementary. Emphasis on duty should not be at the cost of de-emphasising rights.

Overall Grading (✓)

Poor			Average			Good		
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Q.3)

Are Fundamental Rights complementary to or contradictory to DPSPs? What has been the position of Supreme court on this issue?

Fundamental Rights represents civil and political rights, while DPSPs represent social and economic rights.

Complementary or Contradictory?

→ Rights and ~~duties~~ DPSPs are closely related as one limits state's power, while the other encourages state to provide socio-economic rights.

→ Part III and Part IV came into contradiction because of their legal status which says ↓

FR → Enforcement itself a Fundamental Right (FR)

DPSPs → Non-enforceable

Court's position

(i) Kerala Education Bill case

The Supreme court espoused to the principle of Harmonious Construction between Rights and Directive principles

(ii) Minewa Mills case

Fundamental Rights and Directive principles are complementary and supplementary to each other

(iii) Ashok Kumar Thakur case

DPSPs provide socio-economic rights, while FRs provides civil and political rights.

In any conflict between them, the judiciary adjudicates. DPSPs have broadened the scope of A. 21 and has continued to complement Fundamental rights.

Overall Grading (✓)

Poor			Average			Good		
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Q.4) Examine the relevance of DPSPs in the era of globalisation

The Directive Principles of State Policy, found in Part IV of the Constitution, guarantees socio economic rights and tries to establish a welfare state.

Relevance of DPSP in an era of globalisation

The advent of globalisation in 1990s in India impacted many arenas of society.

With an increase in privatisation and presence of a culture of consumerism, development has taken a toll on the environment, marginalised sections etc

(i) Inequalities

With India's richest 1% holding over 40% of the nation's wealth, inequalities continue to widen. DPSPs allows the state

to reduce these inequalities through welfare schemes

(ii) Sustainable development

DPSPs will help in achieving SDGs goals by 2030

(iii) Human rights

DPSPs are important to ensure equal wages and to increase standard of living of workers

(iv) Environment

With uncertainty created by the Pandemic, DPSPs stay relevant in ensuring the protection of environment

(v) Human Capital

DPSPs pushes the government to provide free education and quality healthcare.

Thus, DPSPs hold relevance for a better informed and equity based world

Overall Grading (✓)

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Q.5)

Supreme court of India upheld the validity of 103rd amendment. Analyse the repercussions of this judgement on socio-economic realms of justice in India.

The Constitution Bench of the Supreme Court upheld the validity of the 103rd amendment which provides 10% reservation to Economically Weaker Sections in government jobs and educational institutions.



Judgement

- (i) The court agreed that poverty is a marker of deprivation that the state can address through reservations.

- (ii) The exclusion of SC/ST/SEBC from the quota is not discriminatory because reservation to EWS is seen separate and it cannot be denied them because they are otherwise not suffering from disadvantages.
- (iii) Exclusion of classes covered by A. 15(4) and A. 16(4) from benefitting EWS reservation does not damage Basic Structure

Repercussions on Socio-economic justice

- (i) Using economic criteria ^{alone} to understand marginalisation can lead to subjugation of historically disadvantaged groups
- ↓
- (ii) May further perpetuate untouchability, which is abolished by Article 17
- (iii) Reservations for SC/ST is yet to be implemented for promotions after the 77th amendment.

(iii) "Economic criteria is "artificial" → No basis for discrimination in social life is argued by Owen Fiss (Professor of Yale University)

Solutions

- (i) Justices Iyogi and Nariman "matrice" to justify reservations — dist of differently weighted categories would give more realistic representation.
- (ii) The EWS quota should be considered to be made open to all communities
- (iii) Caste based discrimination to be addressed
- (iv) Quality of education must be improved to reduce the struggle among communities to get classified as backward.

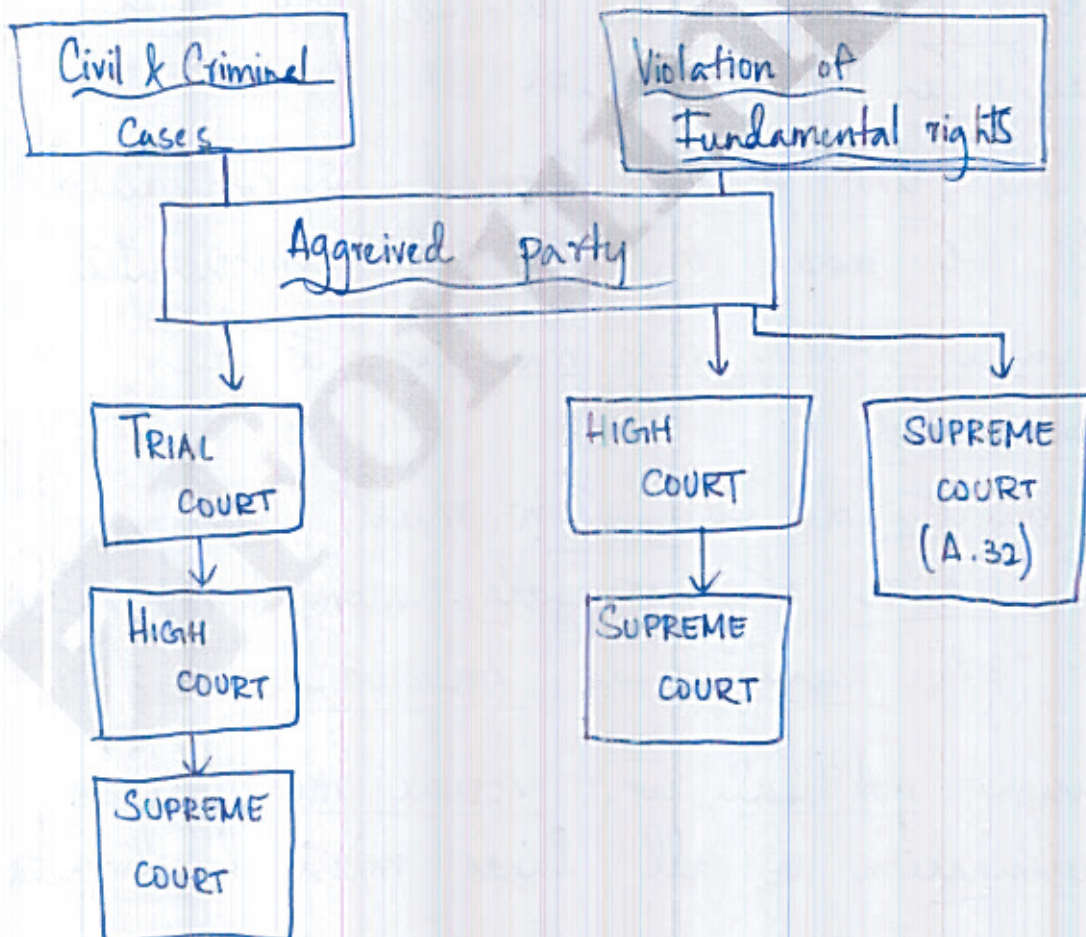
Through political and social mobilisation, discrimination of all kinds must be eliminated

Overall Grading (✓)

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Q.6) Examine the scope of A. 32 with respect to recent judgements of supreme court

Article 32 of the Constitution guarantees every citizen of India the right to seek constitutional remedy from the supreme Court, if they have been deprived of their fundamental rights.



Judgements of Supreme Court

(i) Romesh Thapar case (1950)

The Supreme Court held that Article 32 is a guaranteed remedy for the enforcement of Fundamental rights.

(ii) Chandrakumar case (1997)

The Supreme court ruled that the writ jurisdiction of Supreme Court and High Courts constitute a part of the Banc structure of the Constitution.

'Spate of Petitions'

(i) In 2020, Siddique Kappan and Sameet Thakur invoked Article 32 when they were arrested.

In both these cases, the Supreme Court asked the petitioners to invoke Article 226 and move to High Courts because the court observed there has

been an increase in "spate of petitions under Article 32."

Counter argument

The Supreme court has transferred cases to itself from High Courts, even as it undelines the power of High courts

eg. The Supreme Court transferred the case involving land use for Central vista project to itself from the Delhi High Court

Constitutional experts believe that it is finally at the Supreme Court's discretion. Each judge decides if an intervention is warranted in a case which could be heard by the High Court first.

Article 32 continues to be the soul of the Constitution as mentioned by Dr. Ambedkar by guaranteeing Fundamental rights to its citizens.

Overall Grading (✓)

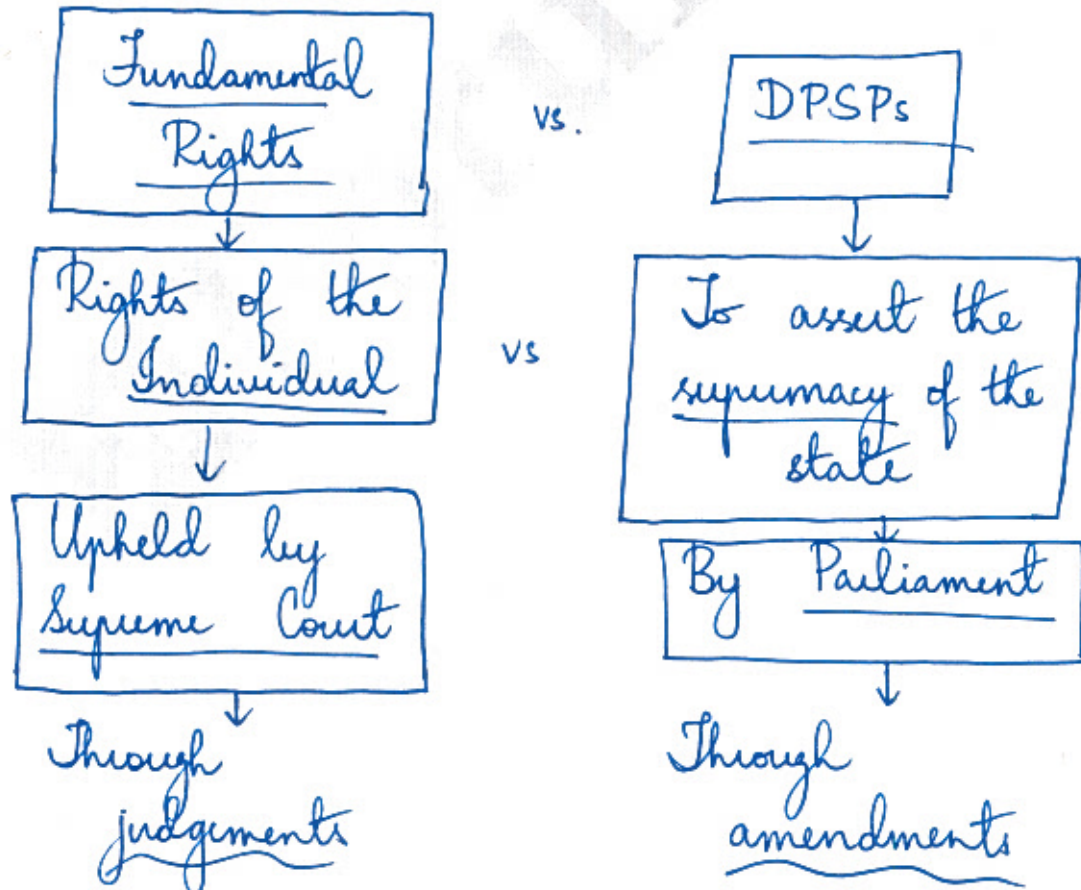
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Q.7)

Constitutionally reconciling FRs with DPSPs led to frequent amendments of Constitution and judicial interventions. Comment.

As mentioned in the Ashok Kumar Thakur case, Fundamental Rights protect the political and civil rights of citizens while Directive Principles of State Policy protects the socio-economic rights.

Conflicts between FRs and DPSPs



Amendments and Judicial interventions

Part III and Part IV primarily comes into contradiction because of their legal status

Part III - Enforceable

Part IV - Non-enforceable

① Kuala Education Bill case

The court espoused for the Principle of Harmonious Construction between Fundamental Rights and DPSPs

② Champakam Dorairajam Case

Court's verdict

DPSPs < Fundamental rights

Parliament's reaction

Amended FRs
conflicting with DPSPs

③ Shankari Prasad case

The court ruled that judicial review under A. 32 excludes amendment

④ Golaknath case

Court's verdict
Tilted in favour of
Fundamental rights

Parliament's reaction
25th Constitutional
amendment
↓
A.31(C) in Part III
↳ 2 provisions

⑤ Kesavananda Bharti case

Court's verdict
→ 1st provision - Upheld
A 31(C)
↳ 2nd provision - Void

Parliament's reaction
42nd Amendment
↓
Extended scope of 1st
provision under A.31C

⑥ Minewa Mills case

The court ruled that A.31C would be
protected only to implement A.39b and
39c and not any other DPSPs.

In case of any conflict between
Fundamental Rights and DPSPs, the
judiciary adjudicates. The judiciary has
called for Harmonious construction between them

Overall Grading (✓)

Poor			Average			Good		
1	2	3	4	5	6	7	8	9

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